

Senator Jerry W. Stevenson proposes the following substitute bill:

FDIC PREMIUM DEDUCTION AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: Tim Quinn

LONG TITLE

General Description:

This bill modifies the Corporate Franchise and Income Taxes code and the Individual Income Tax Act by amending provisions relating to certain subtractions from unadjusted income or adjusted gross income.

Highlighted Provisions:

This bill:

- ▶ enacts a provision that authorizes a subtraction from unadjusted income of a corporate taxpayer, adjusted gross income of an individual income taxpayer, and unadjusted income of a resident or nonresident estate or trust for certain amounts of FDIC premiums paid or incurred by the taxpayer that are disallowed as a deduction for federal income tax purposes; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:



26 [59-7-106](#), as last amended by Laws of Utah 2017, Chapter 389
27 [59-10-114](#), as last amended by Laws of Utah 2018, Chapters 190 and 370
28 [59-10-202](#), as last amended by Laws of Utah 2018, Chapter 190

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section [59-7-106](#) is amended to read:

32 **[59-7-106. Subtractions from unadjusted income.](#)**

33 (1) In computing adjusted income, the following amounts shall be subtracted from
34 unadjusted income:

35 (a) the foreign dividend gross-up included in gross income for federal income tax
36 purposes under Section 78, Internal Revenue Code;

37 (b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the
38 taxpayer elects to deduct the net capital loss on the return filed under this chapter for the
39 taxable year for which the net capital loss is incurred;

40 (c) the decrease in salary expense deduction for federal income tax purposes due to
41 claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

42 (d) the decrease in qualified research and basic research expense deduction for federal
43 income tax purposes due to claiming the federal credit for increasing research activities under
44 Section 41, Internal Revenue Code;

45 (e) the decrease in qualified clinical testing expense deduction for federal income tax
46 purposes due to claiming the federal credit for clinical testing expenses for certain drugs for
47 rare diseases or conditions under Section 45C, Internal Revenue Code;

48 (f) any decrease in any expense deduction for federal income tax purposes due to
49 claiming any other federal credit;

50 (g) the safe harbor lease adjustment required under Subsections [59-7-111\(1\)\(b\)](#) and
51 [\(2\)\(b\)](#);

52 (h) any income on the federal corporation income tax return that has been previously
53 taxed by Utah;

54 (i) an amount included in federal taxable income that is due to a refund of a tax,
55 including a franchise tax, an income tax, a corporate stock and business tax, or an occupation
56 tax:

- 57 (i) if that tax is imposed for the privilege of:
58 (A) doing business; or
59 (B) exercising a corporate franchise;
- 60 (ii) if that tax is paid by the corporation to:
61 (A) Utah;
62 (B) another state of the United States;
63 (C) a foreign country;
64 (D) a United States possession; or
65 (E) the Commonwealth of Puerto Rico; and
- 66 (iii) to the extent that tax was added to unadjusted income under Section 59-7-105;
67 (j) a charitable contribution, to the extent the charitable contribution is allowed as a
68 subtraction under Section 59-7-109;
- 69 (k) subject to Subsection (3), 50% of a dividend considered to be received or received
70 from a subsidiary that:
71 (i) is a member of the unitary group;
72 (ii) is organized or incorporated outside of the United States; and
73 (iii) is not included in a combined report under Section 59-7-402 or 59-7-403;
- 74 (l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a
75 foreign operating company;
- 76 (m) the amount of gain or loss that is included in unadjusted income but not recognized
77 for federal purposes on stock sold or exchanged by a member of a selling consolidated group as
78 defined in Section 338, Internal Revenue Code, if an election has been made in accordance
79 with Section 338(h)(10), Internal Revenue Code;
- 80 (n) the amount of gain or loss that is included in unadjusted income but not recognized
81 for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance
82 with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal
83 Revenue Code, has been made for federal purposes;
- 84 (o) subject to Subsection (5), an adjustment to the following due to a difference
85 between basis for federal purposes and basis as computed under Section 59-7-107:
86 (i) an amortization expense;
87 (ii) a depreciation expense;

- 88 (iii) a gain;
- 89 (iv) a loss; or
- 90 (v) an item similar to Subsections (1)(o)(i) through (iv);
- 91 (p) an interest expense that is not deducted on a federal corporation income tax return
- 92 under Section 265(b) or 291(e), Internal Revenue Code;
- 93 (q) 100% of dividends received from a subsidiary that is an insurance company if that
- 94 subsidiary that is an insurance company is:
- 95 (i) exempt from this chapter under Subsection 59-7-102(1)(c); and
- 96 (ii) under common ownership;
- 97 (r) subject to Subsection 59-7-105(10), for a corporation that is an account owner as
- 98 defined in Section 53B-8a-102, the amount of a qualified investment as defined in Section
- 99 53B-8a-102.5:
- 100 (i) that the corporation or a person other than the corporation makes into an account
- 101 owned by the corporation during the taxable year;
- 102 (ii) to the extent that neither the corporation nor the person other than the corporation
- 103 described in Subsection (1)(r)(i) deducts the qualified investment on a federal income tax
- 104 return; and
- 105 (iii) to the extent the qualified investment does not exceed the maximum amount of the
- 106 qualified investment that may be subtracted from unadjusted income for a taxable year in
- 107 accordance with Subsection 53B-8a-106(1);
- 108 (s) for a corporation that makes a donation, as that term is defined in Section
- 109 53B-8a-201, to the Student Prosperity Savings Program created in Section 53B-8a-202, the
- 110 amount of the donation to the extent that the corporation did not deduct the donation on a
- 111 federal income tax return;
- 112 (t) for purposes of income included in a combined report under Part 4, Combined
- 113 Reporting, the entire amount of the dividends a member of a unitary group receives or is
- 114 considered to receive from a captive real estate investment trust; ~~and~~
- 115 (u) the increase in income for federal income tax purposes due to claiming a:
- 116 (i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or
- 117 (ii) qualified zone academy bond under Section 1397E, Internal Revenue Code[.];
- 118 (v) for a taxable year beginning on or after January 1, 2019, but beginning on or before

119 December 31, 2019, only:

120 (i) the amount of any FDIC premium paid or incurred by the taxpayer that is
121 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
122 Revenue Code, on the taxpayer's 2018 federal income tax return; plus

123 (ii) the amount of any FDIC premium paid or incurred by the taxpayer that is
124 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
125 Revenue Code, for the taxable year; and

126 (w) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC
127 premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income
128 tax purposes under Section 162(r), Internal Revenue Code, for the taxable year.

129 (2) For purposes of Subsection (1)(b):

130 (a) the subtraction shall be made by claiming the subtraction on a return filed:

131 (i) under this chapter for the taxable year for which the net capital loss is incurred; and

132 (ii) by the due date of the return, including extensions; and

133 (b) a net capital loss for a taxable year shall be:

134 (i) subtracted for the taxable year for which the net capital loss is incurred; or

135 (ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue
136 Code.

137 (3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a
138 taxpayer shall first subtract from a dividend considered to be received or received an expense
139 directly attributable to that dividend.

140 (b) For purposes of Subsection (3)(a), the amount of an interest expense that is
141 considered to be directly attributable to a dividend is calculated by multiplying the interest
142 expense by a fraction:

143 (i) the numerator of which is the taxpayer's average investment in the dividend paying
144 subsidiaries; and

145 (ii) the denominator of which is the taxpayer's average total investment in assets.

146 (c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in
147 determining income apportionable to this state, a portion of the factors of a foreign subsidiary
148 that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the
149 combined report factors as provided in this Subsection (3)(c).

150 (ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign
151 subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be
152 included in the combined report factors is calculated by multiplying each factor of the foreign
153 subsidiary by a fraction:

154 (A) not to exceed 100%; and

155 (B) (I) the numerator of which is the amount of the dividend paid by the foreign
156 subsidiary that is included in adjusted income; and

157 (II) the denominator of which is the current year earnings and profits of the foreign
158 subsidiary as determined under the Internal Revenue Code.

159 (4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under
160 Subsection (1)(l):

161 (i) if the taxpayer elects to file a worldwide combined report as provided in Section
162 [59-7-403](#); or

163 (ii) for the following:

164 (A) income generated from intangible property; or

165 (B) a capital gain, dividend, interest, rent, royalty, or other similar item that is
166 generated from an asset held for investment and not from a regular business trading activity.

167 (b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating
168 company:

169 (i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

170 (ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a
171 transaction that occurs between members of a unitary group.

172 (c) For purposes of the subtraction provided for in Subsection (1)(l), in determining
173 income apportionable to this state, the factors for a foreign operating company shall be
174 included in the combined report factors in the same percentages as the foreign operating
175 company's adjusted income is included in the combined adjusted income.

176 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
177 commission may by rule define what constitutes:

178 (i) income generated from intangible property; or

179 (ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is
180 generated from an asset held for investment and not from a regular business trading activity.

181 (5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of
182 a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax
183 credit is claimed if:

184 (i) there is a reduction in federal basis for a federal tax credit; and

185 (ii) there is no corresponding tax credit allowed in this state.

186 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
187 commission may by rule define what constitutes an item similar to Subsections (1)(o)(i)
188 through (iv).

189 Section 2. Section **59-10-114** is amended to read:

190 **59-10-114. Additions to and subtractions from adjusted gross income of an**
191 **individual.**

192 (1) There shall be added to adjusted gross income of a resident or nonresident
193 individual:

194 (a) a lump sum distribution that the taxpayer does not include in adjusted gross income
195 on the taxpayer's federal individual income tax return for the taxable year;

196 (b) the amount of a child's income calculated under Subsection (4) that:

197 (i) a parent elects to report on the parent's federal individual income tax return for the
198 taxable year; and

199 (ii) the parent does not include in adjusted gross income on the parent's federal
200 individual income tax return for the taxable year;

201 (c) (i) a withdrawal from a medical care savings account and any penalty imposed for
202 the taxable year if:

203 (A) the resident or nonresident individual does not deduct the amounts on the resident
204 or nonresident individual's federal individual income tax return under Section 220, Internal
205 Revenue Code;

206 (B) the withdrawal is subject to Subsections [31A-32a-105\(1\)](#) and (2); and

207 (C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a
208 return the resident or nonresident individual files under this chapter;

209 (ii) a disbursement required to be added to adjusted gross income in accordance with
210 Subsection [31A-32a-105\(3\)](#); or

211 (iii) an amount required to be added to adjusted gross income in accordance with

212 Subsection 31A-32a-105(5)(c);

213 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,
214 from the account of a resident or nonresident individual who is an account owner as defined in
215 Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount
216 withdrawn from the account of the resident or nonresident individual who is the account
217 owner:

218 (i) is not expended for:

219 (A) higher education costs as defined in Section 53B-8a-102.5; or

220 (B) a payment or distribution that qualifies as an exception to the additional tax for
221 distributions not used for educational expenses provided in Sections 529(c) and 530(d),
222 Internal Revenue Code; and

223 (ii) is:

224 (A) subtracted by the resident or nonresident individual:

225 (I) who is the account owner; and

226 (II) on the resident or nonresident individual's return filed under this chapter for a
227 taxable year beginning on or before December 31, 2007; or

228 (B) used as the basis for the resident or nonresident individual who is the account
229 owner to claim a tax credit under Section 59-10-1017;

230 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of
231 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other
232 evidences of indebtedness:

233 (i) issued by one or more of the following entities:

234 (A) a state other than this state;

235 (B) the District of Columbia;

236 (C) a political subdivision of a state other than this state; or

237 (D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A)
238 through (C); and

239 (ii) to the extent the interest is not included in adjusted gross income on the taxpayer's
240 federal income tax return for the taxable year;

241 (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a
242 resident trust of income that was taxed at the trust level for federal tax purposes, but was

243 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

244 (g) any distribution received by a resident beneficiary of a nonresident trust of
245 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
246 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
247 was not taxed at the trust level by any state, with undistributed distributable net income
248 considered to be distributed from the most recently accumulated undistributed distributable net
249 income; and

250 (h) any adoption expense:

251 (i) for which a resident or nonresident individual receives reimbursement from another
252 person; and

253 (ii) to the extent to which the resident or nonresident individual subtracts that adoption
254 expense:

255 (A) on a return filed under this chapter for a taxable year beginning on or before
256 December 31, 2007; or

257 (B) from federal taxable income on a federal individual income tax return.

258 (2) There shall be subtracted from adjusted gross income of a resident or nonresident
259 individual:

260 (a) the difference between:

261 (i) the interest or a dividend on an obligation or security of the United States or an
262 authority, commission, instrumentality, or possession of the United States, to the extent that
263 interest or dividend is:

264 (A) included in adjusted gross income for federal income tax purposes for the taxable
265 year; and

266 (B) exempt from state income taxes under the laws of the United States; and

267 (ii) any interest on indebtedness incurred or continued to purchase or carry the
268 obligation or security described in Subsection (2)(a)(i);

269 (b) for taxable years beginning on or after January 1, 2000, if the conditions of
270 Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

271 (i) during a time period that the Ute tribal member resides on homesteaded land
272 diminished from the Uintah and Ouray Reservation; and

273 (ii) from a source within the Uintah and Ouray Reservation;

274 (c) an amount received by a resident or nonresident individual or distribution received
275 by a resident or nonresident beneficiary of a resident trust:

276 (i) if that amount or distribution constitutes a refund of taxes imposed by:

277 (A) a state; or

278 (B) the District of Columbia; and

279 (ii) to the extent that amount or distribution is included in adjusted gross income for
280 that taxable year on the federal individual income tax return of the resident or nonresident
281 individual or resident or nonresident beneficiary of a resident trust;

282 (d) the amount of a railroad retirement benefit:

283 (i) paid:

284 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
285 seq.;

286 (B) to a resident or nonresident individual; and

287 (C) for the taxable year; and

288 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on
289 that resident or nonresident individual's federal individual income tax return for that taxable
290 year;

291 (e) an amount:

292 (i) received by an enrolled member of an American Indian tribe; and

293 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
294 part on that amount in accordance with:

295 (A) federal law;

296 (B) a treaty; or

297 (C) a final decision issued by a court of competent jurisdiction;

298 (f) an amount received:

299 (i) for the interest on a bond, note, or other obligation issued by an entity for which
300 state statute provides an exemption of interest on its bonds from state individual income tax;

301 (ii) by a resident or nonresident individual;

302 (iii) for the taxable year; and

303 (iv) to the extent the amount is included in adjusted gross income on the taxpayer's
304 federal income tax return for the taxable year; [~~and~~]

305 (g) the amount of all income, including income apportioned to another state, of a
306 nonmilitary spouse of an active duty military member if:

307 (i) both the nonmilitary spouse and the active duty military member are nonresident
308 individuals;

309 (ii) the active duty military member is stationed in Utah;

310 (iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec.
311 4001(a)(2); and

312 (iv) the income is included in adjusted gross income for federal income tax purposes
313 for the taxable year[-];

314 (h) for a taxable year beginning on or after January 1, 2019, but beginning on or before
315 December 31, 2019, only:

316 (i) the amount of any FDIC premium paid or incurred by the taxpayer that is
317 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
318 Revenue Code, on the taxpayer's 2018 federal income tax return; plus

319 (ii) the amount of any FDIC premium paid or incurred by the taxpayer that is
320 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
321 Revenue Code, for the taxable year; and

322 (i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC
323 premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income
324 tax purposes under Section 162(r), Internal Revenue Code, for the taxable year.

325 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

326 (i) the taxpayer is a Ute tribal member; and

327 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
328 requirements of this Subsection (3).

329 (b) The agreement described in Subsection (3)(a):

330 (i) may not:

331 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

332 (B) provide a subtraction under this section greater than or different from the
333 subtraction described in Subsection (2)(b); or

334 (C) affect the power of the state to establish rates of taxation; and

335 (ii) shall:

336 (A) provide for the implementation of the subtraction described in Subsection (2)(b);

337 (B) be in writing;

338 (C) be signed by:

339 (I) the governor; and

340 (II) the chair of the Business Committee of the Ute tribe;

341 (D) be conditioned on obtaining any approval required by federal law; and

342 (E) state the effective date of the agreement.

343 (c) (i) The governor shall report to the commission by no later than February 1 of each
344 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is
345 in effect.

346 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the
347 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or
348 after the January 1 following the termination of the agreement.

349 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,
350 Utah Administrative Rulemaking Act, the commission may make rules:

351 (i) for determining whether income is derived from a source within the Uintah and
352 Ouray Reservation; and

353 (ii) that are substantially similar to how adjusted gross income derived from Utah
354 sources is determined under Section [59-10-117](#).

355 (4) (a) For purposes of this Subsection (4), "Form 8814" means:

356 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's
357 Interest and Dividends; or

358 (ii) (A) a form designated by the commission in accordance with Subsection
359 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal
360 individual income taxes the information contained on 2000 Form 8814 is reported on a form
361 other than Form 8814; and

362 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter
363 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as
364 being substantially similar to 2000 Form 8814 if for purposes of federal individual income
365 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
366 8814.

367 (b) The amount of a child's income added to adjusted gross income under Subsection
368 (1)(b) is equal to the difference between:

369 (i) the lesser of:

370 (A) the base amount specified on Form 8814; and

371 (B) the sum of the following reported on Form 8814:

372 (I) the child's taxable interest;

373 (II) the child's ordinary dividends; and

374 (III) the child's capital gain distributions; and

375 (ii) the amount not taxed that is specified on Form 8814.

376 (5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences
377 of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not
378 be added to adjusted gross income of a resident or nonresident individual if, as annually
379 determined by the commission:

380 (a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the
381 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on
382 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

383 (b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not
384 impose a tax based on income on any part of the bonds, notes, and other evidences of
385 indebtedness of this state:

386 (i) the entity; or

387 (ii) (A) the state in which the entity is located; or

388 (B) the District of Columbia, if the entity is located within the District of Columbia.

389 Section 3. Section **59-10-202** is amended to read:

390 **59-10-202. Additions to and subtractions from unadjusted income of a resident or**
391 **nonresident estate or trust.**

392 (1) There shall be added to unadjusted income of a resident or nonresident estate or
393 trust:

394 (a) a lump sum distribution allowable as a deduction under Section 402(d)(3), Internal
395 Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue Code, in
396 determining adjusted gross income;

397 (b) except as provided in Subsection (3), for bonds, notes, and other evidences of

398 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other
399 evidences of indebtedness:

400 (i) issued by one or more of the following entities:

401 (A) a state other than this state;

402 (B) the District of Columbia;

403 (C) a political subdivision of a state other than this state; or

404 (D) an agency or instrumentality of an entity described in Subsections (1)(b)(i)(A)

405 through (C); and

406 (ii) to the extent the interest is not included in federal taxable income on the taxpayer's
407 federal income tax return for the taxable year;

408 (c) any portion of federal taxable income for a taxable year if that federal taxable
409 income is derived from stock:

410 (i) in an S corporation; and

411 (ii) that is held by an electing small business trust;

412 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,
413 from the account of a resident or nonresident estate or trust that is an account owner as defined
414 in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount
415 withdrawn from the account of the resident or nonresident estate or trust that is the account
416 owner:

417 (i) is not expended for:

418 (A) higher education costs as defined in Section 53B-8a-102.5; or

419 (B) a payment or distribution that qualifies as an exception to the additional tax for
420 distributions not used for educational expenses provided in Sections 529(c) and 530(d),

421 Internal Revenue Code; and

422 (ii) is:

423 (A) subtracted by the resident or nonresident estate or trust:

424 (I) that is the account owner; and

425 (II) on the resident or nonresident estate's or trust's return filed under this chapter for a
426 taxable year beginning on or before December 31, 2007; or

427 (B) used as the basis for the resident or nonresident estate or trust that is the account
428 owner to claim a tax credit under Section 59-10-1017; and

429 (e) any fiduciary adjustments required by Section 59-10-210.

430 (2) There shall be subtracted from unadjusted income of a resident or nonresident
431 estate or trust:

432 (a) the interest or a dividend on obligations or securities of the United States and its
433 possessions or of any authority, commission, or instrumentality of the United States, to the
434 extent that interest or dividend is included in gross income for federal income tax purposes for
435 the taxable year but exempt from state income taxes under the laws of the United States, but
436 the amount subtracted under this Subsection (2) shall be reduced by any interest on
437 indebtedness incurred or continued to purchase or carry the obligations or securities described
438 in this Subsection (2), and by any expenses incurred in the production of interest or dividend
439 income described in this Subsection (2) to the extent that such expenses, including amortizable
440 bond premiums, are deductible in determining federal taxable income;

441 (b) income of an irrevocable resident trust if:

442 (i) the income would not be treated as state taxable income derived from Utah sources
443 under Section 59-10-204 if received by a nonresident trust;

444 (ii) the trust first became a resident trust on or after January 1, 2004;

445 (iii) no assets of the trust were held, at any time after January 1, 2003, in another
446 resident irrevocable trust created by the same settlor or the spouse of the same settlor;

447 (iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);

448 (v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the
449 settlor or any other person is treated as an owner of any portion of the trust under Subtitle A,
450 Subchapter J, Subpart E of the Internal Revenue Code; and

451 (vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on
452 indebtedness incurred or continued to purchase or carry the assets generating the income
453 described in this Subsection (2)(b), and by any expenses incurred in the production of income
454 described in this Subsection (2)(b), to the extent that those expenses, including amortizable
455 bond premiums, are deductible in determining federal taxable income;

456 (c) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or
457 nonresident estate or trust derived from a deceased Ute tribal member:

458 (i) during a time period that the Ute tribal member resided on homesteaded land
459 diminished from the Uintah and Ouray Reservation; and

- 460 (ii) from a source within the Uintah and Ouray Reservation;
- 461 (d) any amount:
 - 462 (i) received by a resident or nonresident estate or trust;
 - 463 (ii) that constitutes a refund of taxes imposed by:
 - 464 (A) a state; or
 - 465 (B) the District of Columbia; and
 - 466 (iii) to the extent that amount is included in total income on that resident or nonresident
 - 467 estate's or trust's federal tax return for estates and trusts for that taxable year;
 - 468 (e) the amount of a railroad retirement benefit:
 - 469 (i) paid:
 - 470 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
 - 471 seq.;
 - 472 (B) to a resident or nonresident estate or trust derived from a deceased resident or
 - 473 nonresident individual; and
 - 474 (C) for the taxable year; and
 - 475 (ii) to the extent that railroad retirement benefit is included in total income on that
 - 476 resident or nonresident estate's or trust's federal tax return for estates and trusts;
 - 477 (f) an amount:
 - 478 (i) received by a resident or nonresident estate or trust if that amount is derived from a
 - 479 deceased enrolled member of an American Indian tribe; and
 - 480 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
 - 481 part on that amount in accordance with:
 - 482 (A) federal law;
 - 483 (B) a treaty; or
 - 484 (C) a final decision issued by a court of competent jurisdiction;
 - 485 (g) the amount that a qualified nongrantor charitable lead trust deducts under Section
 - 486 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on the
 - 487 qualified nongrantor charitable lead trust's federal income tax return for estates and trusts for
 - 488 the taxable year;
 - 489 (h) any fiduciary adjustments required by Section 59-10-210; [and]
 - 490 (i) an amount received:

491 (i) for the interest on a bond, note, or other obligation issued by an entity for which
492 state statute provides an exemption of interest on its bonds from state individual income tax;

493 (ii) by a resident or nonresident estate or trust;

494 (iii) for the taxable year; and

495 (iv) to the extent the amount is included in federal taxable income on the taxpayer's
496 federal income tax return for the taxable year[-];

497 (j) for a taxable year beginning on or after January 1, 2019, but beginning on or before
498 December 31, 2019, only:

499 (i) the amount of any FDIC premium paid or incurred by the resident or nonresident
500 estate or trust that is disallowed as a deduction for federal income tax purposes under Section
501 162(r), Internal Revenue Code, on the resident's or nonresident estate's or trust's 2018 federal
502 income tax return; plus

503 (ii) the amount of any FDIC premium paid or incurred by the resident or nonresident
504 estate or trust that is disallowed as a deduction for federal income tax purposes under Section
505 162(r), Internal Revenue Code, for the taxable year; and

506 (k) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC
507 premium paid or incurred by the resident or nonresident estate or trust that is disallowed as a
508 deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the
509 taxable year.

510 (3) Notwithstanding Subsection (1)(b), interest from bonds, notes, and other evidences
511 of indebtedness issued by an entity described in Subsections (1)(b)(i)(A) through (D) may not
512 be added to unadjusted income of a resident or nonresident estate or trust if, as annually
513 determined by the commission:

514 (a) for an entity described in Subsection (1)(b)(i)(A) or (B), the entity and all of the
515 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on
516 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

517 (b) for an entity described in Subsection (1)(b)(i)(C) or (D), the following do not
518 impose a tax based on income on any part of the bonds, notes, and other evidences of
519 indebtedness of this state:

520 (i) the entity; or

521 (ii) (A) the state in which the entity is located; or

522 (B) the District of Columbia, if the entity is located within the District of Columbia.
523 (4) (a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:
524 (i) the income is derived from a deceased Ute tribal member; and
525 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
526 requirements of this Subsection (4).
527 (b) The agreement described in Subsection (4)(a):
528 (i) may not:
529 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
530 (B) provide a subtraction under this section greater than or different from the
531 subtraction described in Subsection (2)(c); or
532 (C) affect the power of the state to establish rates of taxation; and
533 (ii) shall:
534 (A) provide for the implementation of the subtraction described in Subsection (2)(c);
535 (B) be in writing;
536 (C) be signed by:
537 (I) the governor; and
538 (II) the chair of the Business Committee of the Ute tribe;
539 (D) be conditioned on obtaining any approval required by federal law; and
540 (E) state the effective date of the agreement.
541 (c) (i) The governor shall report to the commission by no later than February 1 of each
542 year regarding whether or not an agreement meeting the requirements of this Subsection (4) is
543 in effect.
544 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
545 subtraction permitted under Subsection (2)(c) is not allowed for taxable years beginning on or
546 after the January 1 following the termination of the agreement.
547 (d) For purposes of Subsection (2)(c) and in accordance with Title 63G, Chapter 3,
548 Utah Administrative Rulemaking Act, the commission may make rules:
549 (i) for determining whether income is derived from a source within the Uintah and
550 Ouray Reservation; and
551 (ii) that are substantially similar to how adjusted gross income derived from Utah
552 sources is determined under Section [59-10-117](#).

553 Section 4. **Retrospective operation.**

554 This bill has retrospective operation for a taxable year beginning on or after January 1,

555 2019.